IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 3 OF 2007

IN

WRIT PETITION NO. 571 OF 2003

NALINI HIMATLAL
Kantilal House,
14, Mama Parmanand Marg,
Mumbai 400 004. ..PETITIONER

V/S

1. The Municipal Corporation
of Gr. Bombay
having its administrative office
at Mahapalika Marg,
Mumbai 400 001.

2. The Executive Engineer
(Building Proposals City)- I
Municipal ’E’ Ward Office
Building, 3rd Floor, 10, Shekh
Hafizuddin Marg, Byculla,
Mumbai 400 008. ..RESPONDENTS

P.K. SAMDHANI I/B PRAKASH & CO. FOR PETITIONER.

P.M. PALEHIKAR FOR RESPONDENTS.

CORAM : D.K. DESHMUKH, J.

DATE : 14TH FEBRUARY, 2007.

JUDGMENT

1. Learned counsel appearing for the Respondent No. 1 states that Respondent No. 1 withdraws the order dated 5-5-2006 made by the Executive Engineer, Respondent No. 2 copy of which is at Ex. K. He further states that the matter will now be heard afresh in accordance with the direction issued by this court, by order dated 7th October, 2004 passed in Writ Petition No. 571 of 2003 by a Deputy Chief Engineer, Building Proposals. Perusal of the order dated 7th October 2004 shows that this court has issued clear directions to the Executive Engineer who has passed the order. This court had directed that first the objections are to be enlisted and then an opportunity of personal hearing is to be given to the petitioner and his architect. Though it cannot be said that the direction issued by this court to enlist the objections has not been complied with by the Executive Engineer, Respondent No. 2 because the objections were enlisted in some manner, but the second requirement of giving personal hearing to the petitioner and his architect, has admittedly

not been complied with. The only reason that has

been given before me is that the architect appointed by the petitioner has been changed, if that is so then it was open for him to call the petitioner for personal hearing. I do not see any reason given by the Executive Engineer as to why he could not give personal hearing to the petitioner. Perusal of paragraph 5 of the order dated 7th October 2004 shows that the Executive Engineer was to pass a reasoned order. Perusal of the order dated 27/11/2006 made by the Executive Engineer shows that there is hardly any reason disclosed in the order. It is thus clear that the respondent No. 2 has clearly violated the order made by this court. I do not propose to take any further action against the Respondent No. 2 as the order has been withdrawn. However considering the conduct of the Respondent No. 2 of disobeying the order made by this court it is in the interest of justice to impose costs. The petition is disposed of. Respondent No. 2 is directed to pay by way of cost of this petition Rs. 5000/- to the petitioner. The costs be paid to the petitioner within 2 weeks from today.

(D.K. DESHMUKH, J.)